

Utah!

Where ideas connect

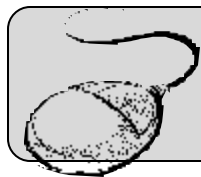
Utah State Tax Commission

Form TC-20S

S Corporation Franchise or Income Tax Return and Instructions

Need forms sent to you?

Call (801) 297-6700 or 1-800-662-4335, ext. 6700



www.tax.ex.state.ut.us

Additional tax information
and Utah State tax forms

210 North 1950 West
Salt Lake City UT 84134
(801) 297-2200
1-800-662-4335

References:

UCA – Utah Code Annotated
IRC – Internal Revenue Code

2001

Contents

General Instructions and Information	1
Instructions for Return	2
Instructions for Schedule A – Utah Taxable Income and Tax Due	4
Instructions for Schedule E – Prepayments of any Type	5
Instructions for Schedule H – Nonbusiness Income Schedule	6
Instructions for Schedule J – Apportionment Schedule	7
Instructions for Schedule M – Qualified Subchapter S Subsidiaries	8
Instructions for Schedule N – Nonresident Tax Remittance Information	9

What's New?

- **Low Income Housing Tax Credit** – The amount of credit allocated to each taxpayer is determined by the building project owner. Form TC-40LI has been modified. A new form, TC-40LIS, must be filed by the project owner. See page 10.
- **Renewable Energy System Tax Credit** – An individual no longer needs to be a resident of the state to claim the credit. See page 9.
- **Clean Fuel Vehicle Tax Credit:** The credit allowable for each qualified vehicle has increased. See page 9.
- **Dissolution or Withdrawal** – Instructions for dissolving or withdrawing a corporation have been added. See page 1

File TC-20 if Corporation filed federal 1120

File TC-20S if S Corporation filed federal 1120S

If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at (801) 297-3811 or Telecommunications Device for the Deaf (TDD) (801) 297-3819. Please allow three working days for a response.

General Instructions and Information

Corporation Identification Numbers

The Utah State Tax Commission will use the Employer Identification Number (EIN) as the corporation's taxpayer identification with the state. The Utah Department of Commerce issues a registration number upon incorporation or qualification in Utah. Enter the Utah Incorporation/Qualification number in the field provided. Make sure you provide your EIN and Utah Incorporation/Qualification Number for proper identification of the corporate tax return or any correspondence.

Corporation Changes

Corporation changes (e.g., name change, merger, or ceasing to do business in Utah) must be reported to both:

Division of Corporations
Department of Commerce
160 E 300 S
Salt Lake City, UT 84145

and:

Utah State Tax Commission
210 N 1950 W
Salt Lake City, UT 84134

Dissolution or Withdrawal

Corporations that cease to do business in Utah must either dissolve or withdraw the corporation.

Corporations that are incorporated in Utah must file Articles of Dissolution with the Department of Commerce. In addition, Utah corporations are encouraged to obtain a Certificate of Tax Clearance prior to dissolution.

Corporations that are incorporated outside of Utah (foreign) MUST obtain a Certificate of Tax Clearance from the Tax Commission before withdrawing from Utah. Foreign corporations must file an Application for Withdrawal with the Department of Commerce.

To request a Certificate of Tax Clearance, complete form TC-2001 and submit it to the attention of the Customer Services Call Unit at the Tax Commission address above.

To close your tax account, submit copies of all required documentation to the attention of Master File Maintenance at the Tax Commission address above.

Rounding Off to Whole-Dollar Amounts

All entries must be reported in whole-dollar amounts.

Liability for Filing and Paying Returns

Tax Forms

The Tax Commission supplies returns for filing of corporate taxes to corporations properly registered with the state. If the corporation does not receive an original return, call the forms hotline or download copies from the Internet (see cover).

NOTE: Review "Supporting Federal Information," later in these general instructions to identify what federal information is required with the Utah filing.

Franchise Tax

Every C corporation incorporated in Utah (domestic), qualified in Utah (foreign), or doing business in Utah, whether qualified or not, must file a corporate franchise tax return. C corporation returns are filed on form TC-20. There is a minimum tax (privilege tax) of \$100 on every corporation that files form TC-20 regardless of whether the corporation exercises its right to do business.

S Corporation

Every S corporation (as defined in IRC Section 1361(a)) that has filed a proper and timely election under IRC Section 1362(a) must file form TC-20S so long as the federal election remains in effect. The minimum tax does not apply to S corporations.

Income Tax

The only corporations required to file under the income tax provisions are those that derive income from Utah sources, but that are not qualified to do business in Utah and have no regular and established place of business in this state, either owned or rented, and that do not maintain an inventory or have employees located at a place of business in Utah. For example: A foreign corporation with goods maintained in Utah in a public warehouse, or a trucking company operated in or through Utah by a foreign corporation not qualified for the privilege of doing business in Utah, is subject to the income rather than franchise tax.

Taxable Year

The taxable year for Utah Corporation franchise or income tax purposes must match the taxable year used for federal income tax purposes. When the taxable year changes for federal purposes, the taxable year must be adjusted accordingly for Utah corporation franchise or income tax purposes. Refer to "Filing Return Where Period Changed," below. If the taxable year is not a calendar year, enter the beginning and ending dates of the taxable year at the top of form TC-20 where indicated.

Filing Return Where Period Changed

When changes are made to the taxable year, as indicated in "Taxable Year," above, a short period return is required. The short period return must cover the period of less than 12 months between the prior taxable year-end and the new taxable year-end. The tax rates as provided in UCA §59-7-104 and §59-7-201 apply to short period returns.

Due Date

Returns must be filed on or before the 15th day of the fourth month following the close of the taxable year.

Filing Extension

Corporations are automatically allowed an extension of up to six months to file a return without filing an extension form. **This is an extension of time to file the return - NOT an extension of time to pay taxes.** To avoid penalty and interest, the prepayment requirements must be met on or before the original return due date and all returns must be filed within the six-month extension period.

Penalties

The penalty for **failure to file a tax due return** by the due date is the greater of \$20 or 10 percent of the unpaid tax. In addition, if a tax balance remains unpaid 90 days after the due date, a second penalty, the greater of \$20 or 10 percent of the tax balance, will be added for failure to pay timely.

The penalty for **failure to pay tax due** as reported on a timely filed return, or within 30 days of a notice of deficiency, is the greater of \$20 or 10 percent of the tax due.

The penalty for **underpayment of the extension prepayment** is 2 percent per month of the unpaid tax during the extension period. If the return is not filed by the extension due date, failure to file and failure to pay penalties will apply, as if the extension had not been granted.

Penalty for **failure to file an information return** or complete supporting schedule is \$50 for each return or schedule to a maximum of \$1,000.

The penalty for each **underpayment of required estimated tax or required quarterly installment** is determined by applying the state interest rate(s) in effect for the period of the underpayment, plus four percentage points to the amount of the underpayment for the period of the underpayment.

For a list of additional penalties that may be imposed, refer to UCA §59-1-401.

Interest

The calendar year interest rate applicable for all taxes and fees administered by the Tax Commission is two percentage points above the federal short-term rate in effect for the preceding fourth calendar quarter. The Internal Revenue Service publishes this rate in September of each year.

The interest rate for most taxes and fees administered by the Tax Commission for the 2002 calendar year is 6 percent.

Supporting Federal Information

Form 1120-S, as filed with the IRS, should be attached when filing the Utah S Corporation Franchise or Income Tax return (Form TC-20S). In addition, federal Schedule K-1 forms must be filed for each shareholder.

First Time Filers

A copy of the IRS letter of authorization, "Notice of Acceptance as an S Corporation," must be attached to the S Corporation Franchise or Income Tax Return, TC-20S, when filing for the first time.

Suspension for Failure to Pay Tax Due

Utah law provides for suspension of the corporation's right to do business in Utah if the corporation fails to pay taxes due before 5 p.m. on the last day of the eleventh month after the due date.

Instructions for Return

Corporation Name and Address Area

Enter the corporate name, address, and telephone number.

EIN and Utah Charter Number

Enter the Employer Identification Number (EIN) and Utah Incorporation/Qualification Number issued by the Department of Commerce in the appropriate fields.

Filing Period

If the return is being filed for a period other than the calendar year ending Dec. 31, 2001 enter the beginning and ending filing dates.

Qualified Subchapter S Subsidiary

An S corporation that owns one or more qualified subchapter S subsidiaries, as defined in IRC Section 1361(b)(3)(B), must:

- Include each subsidiary's assets, liabilities and items of income, loss and deductions as assets, liabilities and items of income, loss and deductions of the S corporation parent for Utah corporation franchise tax purposes. The qualified subchapter S subsidiary shall not be treated as a separate corporation.
- Take into account the activities of the qualified subchapter S subsidiaries in determining whether the S corporation parent is doing business in Utah. For purpose of this determination, all of the subsidiary's activities will be attributed to the parent.
- File TC-20S, Schedule M identifying the qualified subchapter S subsidiaries that are incorporated, qualified, or doing business in Utah.

Amended Returns

To amend, use the tax form and instructions for the year you are amending.

An amended state return should be filed promptly if:

1. An error is discovered on your state or federal return after it has been filed; or
2. Your federal return is audited or adjusted by the IRS and the IRS audit or adjustment affects your state return. You must report such changes or corrected net income within 90 days of the IRS's final determination.

To qualify for a refund or credit, an amended return must be filed within three years following the date the original return was filed. A return filed before the due date is considered filed on the due date.

To amend a previously filed return:

1. Check the amended box located at the top of the return; and
2. Indicate the reason for amending, by writing the number in the box provided on the return.

Reasons for Amending

1. You filed an amended return with the Internal Revenue Service (you must attach a copy of your amended federal return).
2. You made an error on your state return (attach an explanation of the adjustments made).
3. Federal audit adjustments, which resulted in changes in federal taxable income were issued and became final (attach a copy of the IRS adjustment).
4. Other (attach explanation to return).

Complete the return entering the figures as corrected. Enter other amounts shown on your original return. If you received a refund on your original return, enter the total previous refunds on TC-20S, Schedule A, line 14c. If you paid with the original return or made subsequent payments of the tax prior to filing the amended return, enter the total previous payments on TC-20S Schedule A, line 15d.

Remember: Except for the amounts you amend, the amounts you place on the return must match the amounts on your original return.

Line-by-Line Instructions

Line 1(a) - Number of Resident and Nonresident Shares

Indicate number of resident and nonresident shares.

Line 1(b) - Percentage of Resident and Nonresident Shares

Indicate percentage of resident and nonresident shares.

Line 2 - Corporations Conducting Business in Utah

Check box, if applicable.

Line 3 - S Corporation Election
Check box, if applicable.

Line 4 - Refund
From Schedule A, line 18.

Line 5 - Tax Due
From Schedule A, line 19.

Line 6 - Total Penalties and Interest
Enter any applicable penalty and interest amounts on the appropriate lines. Enter the total amount in the box. For help calculating penalties and interest, contact the Tax Commission at (801) 297-7790 or 1-800-662-4335.

Line 7 - Utah Use Tax
Use tax is required on all taxable items purchased for storage, use or consumption in Utah, if Utah sales and use tax was not paid at the time of purchase.

Purchases include amounts paid or charged for purchases made on the Internet or through catalogs. Credit is allowed for sales or use tax paid to another state, but not to a foreign country. If the tax rate in the other state is lower than Utah's tax rate, the person or consumer is required to pay the difference. If the tax rate in the other state is greater than Utah's tax rate, no sales or use tax credit or refund applies.

Enter use tax of \$400 or less. If the amount exceeds \$400, the purchaser is required to obtain a sales and use tax license and to pay the use tax on a sales and use tax return.

Sales and use tax rates vary throughout Utah. Use the chart on the next page to find the tax rate for the Utah location where the merchandise was delivered, stored, used or consumed. If the city is not listed, use the county tax rate. Complete the worksheet below to determine the amount of use tax due. Credit for taxes paid to another state cannot exceed the Utah tax that would otherwise be due on those items. If sales taxes were paid to more than one state, complete a worksheet for each state.

Worksheet for Computing Utah Use Tax (Retain this worksheet for your records.)

1. Total amount of purchases subject to use tax\$ _____
2. Use tax rate (decimal)\$ _____
3. Use tax (multiply line 1 by line 2)\$ _____
4. Credit for sales tax paid to another state\$ _____
5. Amount of use tax due (line 3 less line 4)
Enter ZERO if less than zero\$ _____

Use Tax Rate Chart (Effective Dec. 31, 2001)

.0600 Beaver County	.0760 Alta
.0700 Beaver	.0600 San Juan County
.0600 Box Elder County	.0650 Monticello
.0625 Brigham, Perry, Willard	.0600 Sanpete County
.0600 Cache County	.0625 Ephraim, Gunnison
.0625 Cache County Transit, Hyde Park, Hyrum, Logan, Millville, Nibley, N. Logan, Providence, Richmond, River Heights, Smithfield	.0600 Sevier County
.0600 Carbon County	.0625 Richfield, Salina
.0625 Price, Wellington	.0610 Summit County
.0600 Daggett County	.0735 Park City
.0650 Davis County	.0600 Tooele County
.0600 Duchesne County	.0625 Erda, Grantsville, Lakepoint, Lincoln, Tooele City, Stansbury Park
.0625 Roosevelt	.0650 Uintah County
.0575 Emery County	.0675 Vernal
.0750 Green River	.0600 Utah County
.0700 Garfield County	.0625 Alpine, American Fork, Lehi, Linton, Mapleton, Orem, Payson, Pleasant Grove, Provo, Provo Canyon, Salem, Highland, Spanish Fork, Springville, Cedar Hills
.0800 Boulder, Panguitch, Tropic	.0600 Wasatch County
.0600 Grand County	.0625 Heber
.0775 Moab, East Green River	.0600 Washington Cnty
.0600 Iron County	.0625 Hurricane, Ivins, La Verkin, St. George, Santa Clara, Washington City
.0775 Brian Head	.0750 Springdale
.0600 Juab County	.0600 Wayne County
.0625 Nephi	.0650 Weber County
.0675 Kane County	
.0775 Kanab	
.0575 Millard County	
.0600 Morgan County	
.0600 Piute County	
.0600 Rich County	
.0660 Salt Lake County	

Line 8 - Total Refund
Subtract lines 6 and 7 from line 4.

Line 9 - Total Remitted
Add lines 5, 6 and 7. Show total amount due on line 9. Make check or money order payable to the Utah State Tax Commission. *Do not mail cash. The Tax Commission assumes no liability for loss of cash placed in the mail.*

Signature and Date Lines

Sign and date the return. Refunds will not be granted on returns without signatures and dates.

Supplemental Information to be Supplied by all Corporations

All corporations must complete this section, located on the back of the return.

Instructions for Schedule A - Utah Taxable Income and Tax Due

Line 1 - Income/Loss

Enter the amount of income or loss (R865-6F-35) as taken from federal form 1120S, Schedule K, line 23.

Line 2 - Charitable Contributions Addition

Add charitable contributions that were deducted on federal form 1120S, Schedule K, line 7.

Line 3 - Foreign Taxes

Add foreign taxes that were deducted on federal form 1120S, Schedule K, Line 15(g).

Line 4 - Net Income

Line 4(a) - Total Income before Nonbusiness Income.

Add Lines 1, 2 and 3.

Line 4(b) - Nonresident Income

Schedule A, line 4(a) multiplied by the percentage of nonresident shares on line 1(b) of S Corporation Franchise or Income Tax return, form TC-20S.

Line 5 - Nonbusiness Income Allocation

Add line 5(a) and line 5(b).

Line 5(a) - Nonbusiness Income Allocated to Utah

Schedule H, line 13 multiplied by the percent of nonresident shareholders on line 1(b) of S Corporation Franchise Tax return, form TC-20S.

Line 5(b) - Nonbusiness Income Allocated Outside Utah

Schedule H, line 26 multiplied by the percent of nonresident shareholders on line 1(b) of S Corporation Franchise or Income Tax return, form TC-20S.

Line 6 - Net Income Subject to Apportionment

Subtract line 5 from line 4(b).

Line 7 - Apportionment Fraction

100 percent or bring forward fraction from Schedule J, line 7.

Line 8 - Net Income Apportioned to Utah

Multiply line 6 by line 7.

Line 9 - Nonbusiness Income Allocated to Utah

Enter amount reported on line 5(a) above.

Line 10 - Utah Taxable Income/Loss

Add line 8 and line 9.

Nonresident shareholders should transfer their pro rata share of taxable income before deduction amount to their Utah Individual Income Tax Return, TC-40, line 23, column A.

For tax years beginning on or after 1/1/94, losses are passed through to the individual shareholders and are not available for carryforward or carryback.

Line 11 - Deduction Amount Applies To Income
Greater Than Zero

Multiply line 10 by (.15). If line 10 is a loss, no deduction amount is allowed.

Line 12 - Net Taxable Income
Subtract line 11 from line 10.

Line 13 - Tax Rate
The tax rate is .07.

Line 14 - Calculation of Tax
Add lines 14(a) through 14(c).

Line 14(a) - Calculation of Tax
Multiply line 12 by line 13.

Line 14(b) - Built-in and Other Gains Tax
In accordance with the provisions of UCA §59-7-701, gains or income subject to the federal corporation tax are also subject to the Utah S Corporation Franchise or Income Tax. The most common transactions that occur under federal provisions, include: built-in gains, capital gains, federal recapture amounts of prior year's investment credits, LIFO recapture amounts, and any other similar type transaction. These gains or income should be apportioned (see Schedule J) and multiplied by the current tax rate of 5 percent. Attach a schedule to form TC-20S that provides the necessary details of gains or income being reported.

14(c) - Amended Returns Only (Previous refunds)
This line is used only for amended returns. When filing an amended return, enter the amount of all refunds, credits, or offsets of corporation franchise or income tax received for the tax year being amended. You should exclude refund interest from this amount.

Line 15 - Refundable Credits and Previous
Payments
Add lines 15(a) through 15(d).

Line 15(a) - Mineral Production Withholding
Credit (R865-14W-1)

A refundable credit is allowed for Utah tax withheld from the corporation's mineral production payments as indicated on form TC-675R or federal schedule K-1(s). Form TC-675R or K-1 must be attached when credit is claimed.

Line 15(b) - Credit for Agricultural Off-Highway
Gasoline and Undyed Diesel Tax
(UCA §59-13-202)

Attach federal form 4136. There is no state form for this credit. Make sure you keep all personal records, forms, and worksheets to support this credit.

This is 24.5 cents per gallon credit only for:

- Motor fuel and undyed diesel fuel purchased **in Utah**; and

- Used to operate stationary farm machinery used solely for commercial nonhighway agricultural use; and
- That was taxed at the time of purchase.

Activities that **DO NOT** qualify for this credit include, but are not limited to, the following:

- Golf courses
- Hobbies
- Horse racing
- Boat operations
- Highway seeding
- Vehicles registered for highway use
- Farming for personal use

Multiply the total gallons eligible for the credit by .245.

Line 15(c) - Total Prepayments

A refundable credit is allowed for advance payments made as quarterly prepayments and extension payments (form TC-559). Include any overpayment from a prior year that was applied to this year.

Use Schedule E to compute the total prepayment.

Line 15(d) - Amended Returns Only (Previous
Payments)

This line should only be used for amended returns.

Enter the amount of tax paid with the original return and/or subsequent payments made prior to filing this amended return.

Line 16 - Overpayment

If line 15 is larger than line 14, subtract line 14 from line 15.

Line 17 - Overpayment To Be Applied To Next
Taxable Year

As a convenience to refund filers, all or part of a refund may be applied as an advance payment for the next tax year. Enter amount to be applied (must be less than or equal to refund).

Line 18 - Refund

Subtract line 17 from line 16 and enter amount on form TC-20S, line 4.

Line 19 - Total Tax

If line 14 is larger than line 15, subtract line 15 from line 14. Enter amount on form TC-20S, line 5.

Instructions for Schedule E - Prepayments of any Type

Line 1

Enter the total amount of all refunds applied from the prior year.

Line 2

List the date, check number and amount of extension prepayment.

Line 3

List the date, check number and amount of all prepayments made for the filing period. Enter the total amount on line 3. Attach additional sheet, if necessary.

Line 4

Add lines 1, 2, and 3. Enter the total on this line and on Schedule A, line 15(c).

Instructions for Schedule H – Nonbusiness Income Schedule

Determine nonbusiness income allocated to Utah and outside Utah by completing this schedule. All income that arises from the conduct of the trade or business operations of a corporation is business income.

Nonbusiness income means all income other than business income and will be narrowly construed. Intangible income must be properly classified and based upon factual evidence. The burden of proof is on the corporation to justify the manner in which the income is claimed on the return.

Interest income is business income where the intangible with respect to which the interest was received arises out of or was created in the regular course of the taxpayer's trade or business operations. (Tax Commission Rule R865-6F-8(A)(3)(c))

Dividends are business income where the stock, with respect to which the dividends are received, arises out of or was acquired in the regular course of the taxpayer's trade or business operations. Because of the regularity with which most corporate taxpayers engage in investment activities, income arising from the ownership, sale or other disposition of investments is presumptively business income. (Tax Commission Rule R865-6F-8(A)(3)(d))

Gain or loss from the sale, exchange, or other disposition of real or tangible or intangible personal property constitutes business income if the property while owned by the taxpayer was used in the taxpayer's trade or business. (Tax Commission Rule R865-6F-8(A)(3)(b))

Rental income from real and tangible property is business income if the property with respect to which the rental income was received is used in the taxpayer's trade or business or . . . includable in the property factor. (Tax Commission Rule R865-6F-8(A)(3)(a))

If the corporation is claiming only Utah nonbusiness income, lines 1a through 13 must be completed. If the corporation is claiming only non-Utah nonbusiness income, lines 14a through 26 must be completed. If the corporation is claiming both Utah and non-Utah nonbusiness income, lines 1a through 26 must be completed. Use additional pages if necessary to provide complete

information including a description of the business purpose for making the investment, the transactions creating the non-business income, and the use of revenues generated by the non-business investment.

Utah Nonbusiness Income

Lines 1(a) - (d) - Utah Nonbusiness Income

Complete each column with the information required and show the gross nonbusiness income from each class of income being specifically allocated. Use additional pages, if necessary, to provide complete information about additional sources of nonbusiness income.

Line 2 - Total Utah Nonbusiness Income

Add lines 1(a) through 1(d).

Lines 3(a) - (d) - Direct Related Expenses

Describe and enter amounts of direct expenses on the same letter line as the corresponding nonbusiness income is listed on lines 1(a)-1(d). Direct related expenses include wages, interest, depreciation, etc. (UCA §59-7-101(19)).

Line 4 - Total Direct Related Expenses

Enter the sum of direct related expenses by adding lines 3(a) through 3(d).

Line 5 - Utah Nonbusiness Income Net of
Direct Related Expenses

Subtract line 4 from line 2.

Line 6 - Beginning of Year Assets

Enter the beginning of year value of assets used to produce Utah nonbusiness income in column A. Enter the beginning of year value of the corporation's total assets in column B. Total assets, including Utah assets, should be included in column B.

Line 7 - End of Year Assets

Enter the end of year value of assets used to produce Utah nonbusiness income in column A. Enter the end of year value of the corporation's total assets in column B. Total assets, including Utah assets, should be included in column B.

Line 8 - Sum of Beginning and End of Year
Assets Values

Add lines 6 and 7 for each respective column.

Line 9 - Average Asset Values

Line 8 divided by 2 for each column.

Line 10 - Average Assets Used to Produce Utah
Nonbusiness Income

Line 9, column A divided by line 9, column B.

Line 11 - Interest Expense

Enter the total amount of interest deducted in computing Utah taxable income.

Line 12 - Indirect Related Expenses for Utah
Nonbusiness Income

Multiply line 10 by line 11.

Line 13 - Total Utah Nonbusiness Income Net of Expenses
Subtract line 12 from line 5. Enter amount here and on Schedule A, line 5a.

Non-Utah Nonbusiness Income

Lines 14(a)-(d) - Non-Utah Nonbusiness Income
Complete each column with the information required and show the gross nonbusiness income from each class of income being specifically allocated. Use additional pages, if necessary, to provide complete information about additional sources of nonbusiness income.

Line 15 - Total Non-Utah Nonbusiness Income
Add lines 14(a) through 14(d).

Lines 16(a)-(d) - Direct Related Expenses
Describe and enter amounts of direct expenses on the same letter line as the corresponding nonbusiness income is listed on lines 14(a)-14(d). Direct related expenses include wages, interest, depreciation, etc. (UCA §59-7-101(19)).

Line 17 - Total Direct Related Expenses
Enter the sum of direct related expenses by adding lines 16(a) through 16(d).

Line 18 - Non-Utah Nonbusiness Income Net of Direct Related Expenses
Subtract line 17 from line 15.

Line 19 - Beginning of Year Assets
Enter the beginning of year value of total assets used to produce non-Utah nonbusiness income in column A. Enter the beginning of year value of the corporation's total assets in column B. Total assets, including Utah assets, should be included in column B.

Line 20 - End of Year Assets
Enter the end of year value of total assets used to produce non-Utah nonbusiness income in column A. Enter the end of year value of the corporation's total assets in column B. Total assets, including Utah assets, should be included in column B.

Line 21 - Sum of Beginning and End of Year Assets Values
Add lines 19 and 20 for each respective column.

Line 22 - Average Asset Values
Line 21 divided by 2 for each column.

Line 23 - Average Assets Used to Produce Non-Utah Nonbusiness Income
Line 22, column A divided by line 22, column B.

Line 24 - Interest Expense
Enter the total amount of interest deducted in computing Utah taxable income.

Line 25 - Indirect Related Expenses for Non-Utah Nonbusiness Income
Multiply line 23 by line 24.

Line 26 - Total Non-Utah Nonbusiness Income Net of Expenses
Subtract line 25 from line 18. Enter amount here and on Schedule A, line 5(b).

Instructions for Schedule J - Apportionment Schedule

Determine apportionment fraction by completing this schedule. The factors express a percent for tangible property in Utah, for wages and salaries in Utah, and for sales in Utah. These factors are to be added together and divided by the number of factors present (typically 3) to arrive at the Utah apportionment fraction calculated to **six decimals**. This fraction is to be applied to the net income (or loss) to arrive at the amount of income (or loss) apportioned to Utah. In cases where one or more of the factors is omitted due to peculiar aspects of the business operations, the corporation should divide by the number of factors present.

The Utah property, payroll and sales, of each qualified subchapter S subsidiary shall be added, respectively, to the Utah property, payroll and sales of the S corporation parent to determine the numerators of the property, payroll and sales factors; and all of the property, payroll and sales of each qualified S corporation subsidiary shall be added, respectively, to all of the property, payroll and sales of the S corporation parent, to determine the denominators of the property payroll and sales factor.

Income or loss from partnership or joint venture interests shall be included in income and apportioned to Utah through application of the three-factor formula consisting of property, payroll and sales.

For apportionment purposes, the portion of partnership or joint venture property, payroll, and sales to be included in the corporation's property, payroll, and sales factors shall be computed on the basis of the corporation's ownership interest in the partnership or joint venture.

Briefly describe the nature and location(s) of your Utah business activities in the space provided at the top of this schedule.

Lines 1(a)-(e) - Tangible Property
Show the average cost value during the taxable year of real and tangible personal property used in the business within the state (including leased property) in column A and overall (including Utah) in column B.

Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less the annual rental rate received by the corporation from subrentals.

The average value of property shall be determined by averaging the cost values at the beginning and ending of the tax period. However, monthly values may be used or required if monthly averaging more clearly reflects the average value of the corporation's property.

A supporting schedule should be attached whenever monthly averaging is used.

Line 2 - Total Tangible Property

Enter totals of lines 1(a)-1(e) in the respective columns.

Line 2(a) - Property Fraction

Determine property fraction: column A, line 2 divided by column B, line 2.

Line 3 - Wages, Salaries, Commissions, and Other Includable Compensation

Wages, salaries, commissions, and other includable compensation paid to employees for personal services must be included in the Utah factor to the extent that the services, for which the compensation was paid, were rendered in Utah.

Compensation is paid in the state if:

1. The individual's service is performed entirely within the state;
2. The individual's service is performed both within and outside the state, but the service performed outside the state is incidental to the individual's service within the state; or
3. Some of the service is performed in the state and
 - a. The base of operation or, if there is no base of operation, the place from where the service is directed or controlled within the state, or
 - b. The base of operation or the place where the service is directed or controlled is not in any state where some part of the service is performed, but the individual's residence is in this state.

Amounts reportable for employment security purposes may ordinarily be used to determine the wage factor.

Line 3(a) - Wages Fraction

Column A, line 3 divided by column B, line 3. Overall wages, including Utah, are listed in column B.

Lines 4(a) - (e) - Gross Receipts from Business

The sales factor is the percentage the sales or charges for services within the state for the taxable year bear to the overall sales for the taxable year. Gross receipts from the performance of services are in this state to the extent the services are performed in this state.

Sales of tangible personal property are in this state if the property is delivered or shipped to a purchaser within this state regardless of the F.O.B. point or other conditions of the sale, or if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and: (1) the purchaser is the United States government, or (2) the corporation is not taxable in the state of the purchaser.

Nexus: The jurisdictional link that must be present before a state may tax a corporation upon its activities within a state's borders.

Note: Exception to the above method for securities brokerage businesses can be found in UCA §59-7-319(3).

Line 5 - Total Sales and Service

Enter totals of lines 4(a)-4(e) in their respective columns.

Line 5(a) - Sales Fraction

Determine sales fraction: column A, line 5 divided by column B, line 5. Overall sales, including Utah, are listed in column B.

Line 6 - Total Fraction

Enter total of lines 2(a), 3(a), and 5(a).

Line 7 - Apportionment Fraction

Calculate the apportionment fraction to **six decimals**: Line 6 divided by the number of factors used (typically 3 - property, wages, and sales). If one or more of the factors are not present (i.e., there is a zero in the denominator on lines 2, 3, or 5 in column B), divide by the number of factors present. If the numerator is zero, but a denominator is present, include that factor in the number of factors present. Enter apportionment fraction here and on Schedule A, line 7.

Specialized Apportionment Rules

Specialized apportionment rules apply for:

- Trucking Companies (R865-6F-19)
- Railroads (R865-6F-29)
- Publishing Companies (R865-6F-31)
- Financial Institutions (R865-6F-32)
- Telecommunication (R865-6F-33)

Instructions for Schedule M – Qualified Subchapter S Subsidiaries

An S corporation that has made a Qualified Subchapter S Subsidiary (QSSS) election under IRC 1361(b) must complete Schedule M if any subsidiaries for which such election was made are incorporated, qualified or doing business in Utah. Federal schedules are not acceptable as substitutes. Use of any other form as a substitute for Schedule M is only acceptable with prior approval from the Tax Commission. Refer to Pub 99, "Utah State Tax Commission Guidelines for using Substitute and Copied Tax Forms."

List only corporations that are incorporated, qualified or doing business in Utah. Corporations that are not listed on Schedule M will not be considered to have met the Utah filing requirements.

Instructions for Schedule N – Nonresident Tax Remittance Information

Every S corporation is subject to payment of the corporation franchise tax on Utah's apportioned share of any income subject to federal corporation income tax. Utah's apportioned share of taxable income is taxed at the same rate (5 percent) applied to C corporations.

In addition, tax must be paid at the S corporation level on the percentage of taxable income attributable to the nonresident shareholders of the S corporation. The nonresident's share of taxable income is based on the ratio of stock held by nonresidents to total outstanding stock on the last day of the corporate filing period. The tax rate imposed on the nonresident shareholders is the same as the rate imposed on nonresident partners that file a Utah nonresident composite partnership return.

Nonresident S corporation shareholders may generally consider the tax imposed as either a payment or a withholding. Nonresident shareholders having no other Utah source income may choose whether or not to file a Utah nonresident individual income tax return. However, nonresident shareholders with income or loss from other Utah sources must file a nonresident individual income tax return. A nonresident shareholder who is eligible for tax credits under Utah law may claim those credits by filing a Utah nonresident individual income tax return. If a nonresident individual income tax return is filed, a credit may be claimed for the nonresident shareholder's share of the S corporation tax as shown on form TC-20S, Schedule N.

Note to Tax Preparers: It is recommended that the amount of Utah tax paid on behalf of each shareholder be included on the federal schedule K-1.

Part 1 - Utah Individual Income Tax

S corporations having nonresident shareholders must complete Part I of Schedule N showing the amount of Utah tax paid on behalf of each nonresident shareholder.

Part 2 - Nonrefundable Tax Credits

S corporations that have earned nonrefundable credits are required to complete Part II of Schedule N showing each shareholder's portion of each nonrefundable credit, the total for each credit and the total amount of nonrefundable credits that each shareholder (whether resident or nonresident) has earned.

A summary of current nonrefundable tax credits available for pass-through to shareholders is provided to facilitate an understanding of the requirements for each credit.

Codes for Nonrefundable Credits

- 02 – Qualified Sheltered Workshop Cash Contribution Credit
- 03 – Renewable Energy Systems Tax Credit
- 04 – Clean Fuel Alternative Tax Credit
- 05 – Clean Fuel Vehicle Tax Credit
- 06 – Historic Preservation Tax Credit
- 07 – Enterprise Zone Credit
- 08 – Low Income Housing Tax Credit
- 09 – Credit for Employers who Hire Persons with Disabilities
- 10 – Recycling Market Development Zone Tax Credit
- 12 – Credit for Increasing Research Activities
- 13 – Credit for Machinery and Equipment Used to Conduct Research

(02) Qualified Sheltered Workshop Cash Contribution Credit (UCA §59-10-108)

There is no form for this credit. Keep any documentation to support this credit. The qualified workshop must be written on the return to claim credit.

Cash contributions made within the tax year to a qualified nonprofit rehabilitation sheltered workshop facility for the disabled operating in Utah are eligible for a credit against Utah income taxes. Check with the workshop to make sure they have a current Day Training Provider License or Day Support Provider Certificate issued by the Department of Human Services. The credit is equal to 50 percent of the total of cash contributions, not to exceed \$200 for each Utah Individual Income Tax Return. If the contribution was deducted when calculating federal taxable income (federal form 1120S, Schedule K, line 7), that amount must be added to unadjusted income (Utah Schedule A, line 2) before the credit may be claimed on this line.

For more information, contact:

Contract Administrator
Division of Services for People with Disabilities
120 N 200 W #411
Salt Lake City, UT 84103
(801) 538-4200

(03) Renewable Energy Systems Tax Credit (UCA §59-10-134)

Attach form TC-40E, "Renewable Energy Systems Tax Credit," with the Utah Energy Office stamp, verifying the credit has been approved.

To qualify for the energy tax credit, you must have installed or upgraded a renewable energy system (such as solar or wind generated power systems) during the tax period. Energy saving devices, such as insulation, siding thermal windows and high efficiency furnaces, do not qualify.

To determine if your system or system components and installation qualify for the tax credit you must submit a written application, complete with signatures and photocopies of receipts, to the Utah Energy Office (UEO).

Application forms can be obtained from:

Utah Energy Office
1594 W North Temple, Suite 3610
Box 146480
Salt Lake City, UT 84114-6480
(801) 538-5428
www.nr.utah.gov/energy/credits.htm.

If your system meets the eligibility requirements, you will receive form TC-40E, with information on your eligible system and installation costs and the UEO stamp of approval.

(04) Clean Fuel Alternative Tax Credit (UCA §59-10-128)

Complete and attach form TC-40F, "Clean Fuel Alternative Tax Credit," with the Utah Energy Office seal, verifying the credit has been approved.

To qualify you must have purchased and installed EPA certified pellet burning stoves, high mass wood stoves, solid fuel burning devices, and natural gas or propane free standing fireplaces or inserts. The credit is limited to \$50 or 10 percent of the total of the purchase cost and installation costs, whichever is less.

To obtain form TC-40F, certification, and for additional information, contact:

Division of Air Quality
Department of Environmental Quality
150 N 1950 W
Salt Lake City, UT 84116-0385
(801) 536-4000

(05) Clean Fuel Vehicle Tax Credit (UCA §59-10-127)

Complete and attach form TC-40V, "Clean Fuel Vehicle Tax Credit," with the Division of Air Quality approval stamp, verifying the credit has been approved.

To qualify you must have:

- Purchased a vehicle registered in Utah, for which this credit has not been taken, that was manufactured to use propane, natural gas, or electricity, or
- Purchased and installed equipment to convert a vehicle registered in Utah to use propane, natural gas, or electricity.

Note: Hybrid vehicles do not qualify for this credit.

The credit is:

- 50% of the incremental cost of a new vehicle, up to a maximum tax credit of \$3,000, or
- 50% of the cost of the equipment for conversion, up to a maximum tax credit of \$2,500, or
- 50% of the cost of the equipment for conversion of

a special fuel mobile equipment engine, up to a maximum tax credit of \$1,000.

To obtain form TC-40V, approval, and for additional information, contact:

Division of Air Quality
Department of Environmental Quality
150 N 1950 W
Salt Lake City, UT 84116-0385
(801) 536-4000

(06) Historic Preservation Tax Credit (UCA §59-10-108.5)

Complete and attach form TC-40H, "Historic Preservation Tax Credit," with the State Historic Preservation Office certification, verifying the credit has been approved.

This is a credit for costs incurred in connection with qualified rehabilitation of any residential certified historic building. If qualified rehabilitation expenditures exceed \$10,000, a credit of 20 percent of the total expenditures is allowed. Unused credits may be carried forward five years as a credit against Utah tax due.

To obtain form TC-40H, certification, and for additional information, contact:

State Historic Preservation Office
300 Rio Grande
Salt Lake City, UT 84101
(801) 533-3563

(07) Enterprise Zone Credit (UCA §9-2-413)

There is no form for this credit. Retain documentation to support this credit.

For businesses to qualify for the enterprise zone tax credit, at least 51 percent of the employees employed by the business located in the enterprise zone, must reside in the county in which the enterprise zone is located.

- Businesses engaged in retail trade or public utilities are not eligible for the enterprise zone tax credit.
- Construction jobs are not eligible for the tax credits in paragraphs 1 through 4 below.

The following state tax credits are applicable to qualifying businesses in an enterprise zone.

1. A credit of \$750 for each new full-time position filled for not less than six months during a tax year.
2. An additional \$500 tax credit if the new position pays at least 125 percent of the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services. If this information is not available, the job must pay at least 125 percent of the total average monthly nonagricultural payroll wage in the respective county where the enterprise is located.
3. An additional credit of \$750 may be claimed if the new position is in a business that adds value to agricultural commodities through manufacturing or processing.

4. An additional \$200 credit may be claimed for two consecutive years for each new employee who is insured under an employer-sponsored health insurance program, if the employer pays at least 50 percent of the premium cost for two consecutive years.
5. A 50 percent credit, not to exceed \$100,000, for cash contributions made to a private nonprofit corporation that is exempt from federal income tax under IRC Section 501(c)(3), whose primary purpose is community and economic development and is accredited by the Utah Rural Development Council Board of Directors.
6. A 25 percent credit of the first \$200,000 spent on rehabilitating a building, vacant for two years, in the enterprise zone.
7. An annual investment tax credit of 10 percent of the first \$250,000 investment and 5 percent of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

A business claiming a credit under paragraphs 1 through 4 may claim a credit for 30 full-time employee positions or less in each of its taxable years.

A business may claim an additional credit for a full-time employee position under paragraphs 1 through 4 above if:

- a. The business creates a new full-time employee position;
- b. The total number of full-time employee positions is greater than the number of full-time employee positions previously claimed by the business under paragraph 1 through 4; and
- c. The total number of credits claimed for its current taxable year, including the new full-time employee positions being claimed as a credit, is less than or equal to 30.

If the tax credit exceeds the tax liability, the credit amount exceeding the liability may be carried forward for a period that does not exceed the next three taxable years.

Indian tribes may apply for enterprise zone designation within an Indian reservation.

If enterprise zone credits are being taken based on your ownership in a partnership, you must allocate the above-calculated credits based on your respective percentage of ownership.

To obtain additional information, contact:

Dept. of Community & Economic Development
324 S State St., Suite 500
Salt Lake City, UT 84111
(801) 538-8782

(08) Low Income Housing Tax Credit (UCA §59-10-129)

Individuals sharing in the credit must attach form TC-40TCAC, "Utah Low-Income Housing Tax Credit Allocation Certification," and complete and attach form TC-40LI, "Summary of Utah Low-Income Housing

Tax Credit," to the return. If you are carrying this credit forward or backward, you must also attach form TC-40LIC, "Utah Low-Income Housing Tax Credit Carryback and/or Carryforward," to your return.

The building project owner must also complete and attach form TC-40LIS, "Credit Share Summary of Low-Income Housing Project" to the return.

This credit is an amount determined by the Utah Housing Corporation, for any housing sponsor that has received an allocation of the federal low-income housing tax credit and any applicant for an allocation of the federal low-income housing tax credit. Unused credits may be carried back three years or carried forward five years.

When this credit is applicable, the project owner will provide form TC-40TCAC (issued by the Utah Housing Corporation) to the taxpayer.

Contact:

Utah Housing Corporation
554 S 300 E
Salt Lake City, UT 84111
(801) 521-6950.

(09) Credit For Employers Who Hire Persons With Disabilities (UCA §59-10-109)

Complete and attach form TC-40HD, "Tax Credit for Employers Who Hire Persons with Disabilities," showing certification.

The credit is for employers hiring an individual with a disability who:

1. Worked in Utah for at least 6 months in a taxable year for that employer; and
2. Is paid at least minimum wages by that employer.

Individual with a disability means an individual who:

1. Has been receiving services from a certified day-training program for persons with disabilities, which is certified by the Department of Human Services, for at least six consecutive months prior to working for the employer claiming the tax credit; or
2. Is eligible for services from the Division of Services for People with Disabilities at the time the individual begins working for the employer claiming the tax credit.

To obtain form TC-40HD, certification and for additional information, contact:

Utah Department of Human Services
Division of Services for People with Disabilities
120 N 200 W, Room 411
Salt Lake City, UT 84103
(801) 538-4200

(10) Recycling Market Development Zone Tax Credit (UCA §59-10-108.7)

Attach the completed form TC-40R, "Recycling Market Development Zone Tax Credit," with the Department of Community and Economic Development certification, verifying the credit has been approved.

A credit is available to businesses operating in a recycling market development zone as defined in UCA §9-2-1602.

To obtain form TC-40R, certification, and for additional information, contact:

Dept. of Community & Economic Development,
324 S State Street, Suite 500
Salt Lake City, UT 84111
(801) 538-8804
lprall@dc.ed.state.ut.us

(12) Credit for Increasing Research Activities (UCA §59-10-131)

The credit is for expenses incurred for increasing qualified research activities in Utah. A qualifying taxpayer may claim the credit in the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit.

A qualifying taxpayer may take the following nonrefundable research credits for activities in Utah:

1. A research credit of 6 percent of the taxpayer's qualified research expenses for the current taxable year that exceed the base amount; and
2. A credit for payments to qualified organizations for basic research, as provided in IRC Section 41(e), of 6 percent for the current taxable year that exceed the base amount.

For detailed information regarding this credit, including definition of terms and procedures for claiming the credit, refer to UCA §59-10-131.

(13) Credit for Machinery and Equipment Used to Conduct Research (UCA §59-10-132)

The credit is for machinery, equipment, or both used primarily for conducting qualified research or basic research in Utah for a time period of not less than 12 consecutive months. A qualifying taxpayer may claim the credit in the taxable year immediately following the taxable year for which the taxpayer qualifies for the credit.

A qualifying taxpayer may take the following nonrefundable credits:

1. A credit of 6 percent of the purchase price of certain machinery and equipment primarily used to conduct qualified research in Utah; and
2. A credit of 6 percent of the purchase price of certain machinery and equipment donated to a qualified organization and used primarily to conduct basic research in Utah.

For detailed information regarding this credit, including definition of terms and procedures for claiming the credit, refer to UCA §59-10-132.

Common Return Errors

1. Utah sales factor – Out-of-state corporations that are qualified in Utah, but not “doing business” in Utah are required to file a corporate return paying the minimum tax. However, sales made into Utah are not required to be included in the gross receipts numerator. Conversely, corporations making sales from Utah into a state where they are qualified, but not “doing business” are required to include such sales in the Utah gross receipts numerator as throwback sales. See Utah Administrative Rule R865-6F-24.
2. Dissolution or withdrawal – Corporations that are no longer in business or that are no longer doing business in Utah are required to legally dissolve or withdraw the corporation. See instructions on page 1.